of Congress. The court ruled also that the indictment was sufficient. Another section of the act mentioned particularly public employés. The fact that they were not mentioned in the section on which the indictment was based, the court said, was conclusive proof that the act was intended to apply to all persons who happened to be within public buildings, whether employed there or not. It was therefore immaterial to allege that the solicitation was made to government employés.

It might perhaps be suggested that Congress did not intend to protect mere strangers in the government buildings from annoyance, and that the omission to insert the words "government employés" in this section of the act was unintentional. Certainly the object for which the act was passed would be fully satisfied by that construction. In this case of course the demurrer should have succeeded, as the offence aimed at by the statute was not set out. The result reached, however, is eminently satisfactory from a practical standpoint, for it will give the greatest possible efficiency to a useful law.

WEAVERS' FINES ACT DECLARED UNCONSTITUTIONAL. — The recent decision[1] of the Supreme Court of Massachusetts declaring unconstitutional the "Weavers' Fines Act," passed by the State Legislature of 1891, is noteworthy, as giving a narrow interpretation of the constitutional power to make "all manner of wholesome and reasonable orders . . . not repugnant to the Constitution . . . for the good and welfare" of the public. The act in question is as follows: "No employer shall impose a fine upon or withhold the wages, or any part of the wages, of an employé engaged at weaving, for imperfections that may arise during the process of weaving." The view of the court is that the act is unconstitutional, in that it interferes with the inalienable right of "acquiring, possessing, and protecting property" guaranteed by the State Constitution, by restricting the necessarily incidental right to make reasonable contracts, and in that it impairs the obligation of contracts within the meaning of the Federal Constitution. The court admits that the Legislature, if it should "determine it to be for the best interests of the people that a certain class of employés should not be permitted to subject themselves to an arbitrary imposition of a fine or penalty by their employer, might pass a law to that effect." But they say, "When the attempt is to compel payment under a contract of the price for good work when only inferior work is done, a different question is presented." They find a practical argument in support of their view, in the fact that a suit for damages against the employé for breach of contract would in most cases be of no value to the employer.

Judge Holmes alone dissents from the opinion of the majority and holds the act constitutional. He denies that it in any way impairs the obligation of contracts, for the simple reason that its operation is prospective, and it can scarcely be said to impair the obligation of contracts made after its passage. Nor does it interfere with the right of "acquiring, possessing, and protecting property," any more than the laws against usury or gaming. It is a fair assumption that the act was passed to protect employés from being "often cheated out of a part of their wages under a false pretence that the work done was imperfect."

[1] *Com.* v. *Perry*, 28 N. E. Rep. 1126.

The view taken by Judge Holmes would seem to be the sounder and more liberal one. To the Legislature is confided the generous power to make such laws as it shall deem fit for the general welfare, subject, of course, to constitutional limitations. The Legislature surely may consider the fact that employers may possibly oppress their employés, treat them with injustice and severity, and arbitrarily or dishonestly withhold their wages. The large class employed in the manufacture of cloth cannot afford to be deprived of even a part of their money for any length of time. Surely it is a permissible view that the Legislature, determining it to be for the public interest, should use its power for the protection of this large class, and that, in fact, the act in question is a "wholesome and reasonable order for the good and welfare" of the public.

If the court interprets the statute as forbidding the making of reasonable contracts to pay what the work is worth — and that appears to be their interpretation — their admission that the Legislature might forbid the imposition of a fine or penalty by the employer weakens their position considerably. For if the Legislature may in the interests of the people forbid the direct imposition of a penalty, it is submitted that it may, with equal justification, forbid an indirect imposition by means of a contract to pay what the work is worth.

The act does not pretend to deprive employers of their remedy for imperfect work by action. They still have this remedy, even admitting that the statute in effect abolishes the right of recoupment and set-off — rights which the Legislature may constitutionally abolish. The fact that such remedy is practically worthless is, as Judge Holmes says, no less true, though for different reasons, where the employés' wages are unjustly detained. Furthermore, the practical worthlessness of the remedy is no argument against the constitutionality of the act.

The view of the majority would seem to be an extremely narrow one; as, however, the decision is against the constitutionality of State legislation, there is no chance of an appeal to the Supreme Court of the United States.[1]

LIBELLOUS TO CALL A MAN AN "ANARCHIST." — It may interest Mr. Walter Crane and others to know the opinion of the Illinois Supreme Court as to what charges are likely to bring a man into public hatred, contempt, or ridicule. The decisions of the appellate and circuit courts are reversed, on the ground that in charging the plaintiff with being an anarchist the Chicago *News* laid itself open to damages for libel. That a man may be brought into hatred, contempt, or ridicule by professing vicious, degrading, or absurd principles, says the court, seems too plain for argument; and in a community where anarchy is clearly seen to be no political creed or body of principles, but the enemy of all government and the natural foe of each good citizen, the courts will protect a man from being charged with fellowship in this unpleasant school of philosophy. Of course the definition of libel remains unchanged, but light is thrown on the social status of the anarchist.

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[1] Compare *Turner* v. *Nye*, 28 N. E. Rep. 1048 (Nov. 11, 1891), where the Supreme Court of Massachusetts (Field, C. J., dissenting) held that the Stat. Mass. 1889, c. 383, providing that land might be flowed for the purpose of fish culture, was not unconstitutional, as authorizing the taking of private property for public use, but was within the police power of the State, and a pond stocked with trout, and maintained only for the profit and advantage of the owner, was held to be within the act.